

AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 528

Introduced by Senator Walters

(Coauthor: Senator Runner)

(Coauthors: Assembly Members Garrick, Grove, Harkey, and Mansoor)

February 17, 2011

An act to amend Section 22960.60 of, and to repeal Section 22960.61 of, 20090 of the Government Code, relating to public employees' retirement, and calling a special election to be consolidated with a statewide election, to take effect immediately as an act calling an election.

LEGISLATIVE COUNSEL'S DIGEST

SB 528, as amended, Walters. ~~Public employees' retirement: defined contribution plan.~~ *Public Employees' Retirement System: Board of Administration.*

(1) The Public Employees' Retirement Law requires the Board of Administration of the Public Employees' Retirement System to administer the Public Employees' Retirement Law. Under that law, state employees and employees of local agencies that contract with the Board of Administration for retirement benefits are within the membership of the retirement system. That law, as in effect on July 1, 1991, provides that the membership of the Board of Administration shall include 6 elected members, including 2 members elected from the membership of the retirement system by the members of the retirement system, one member elected from state membership by active state members, 2 members elected by and from active local members, and one member elected by and from the retired members of the retirement system.

This bill instead would provide for the appointment of those 6 board members by the Governor based on their demonstrated expertise in the financial and actuarial fields.

(2) The California Constitution prohibits the number, terms, and method of selection or removal of members of the retirement board of a public pension or retirement system, which includes in its composition elected employee members, from being changed, amended, or modified by the Legislature from those that were required by law or otherwise in effect on July 1, 1991, unless the change, amendment, or modification enacted by the Legislature is ratified by a majority vote of the electors of the jurisdiction in which the participants of the system are or were, prior to retirement, employed.

This bill would call a special election to be consolidated with a statewide election to be held in 2011. The bill would condition the provisions of the bill upon voter approval, and would require the Secretary of State to submit the provisions of the bill to the voters for approval at the consolidated statewide election. Because local election officials would be required to undertake additional duties to place this bill on the ballot at the consolidated election, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an act calling an election.

~~The Public Employees' Retirement Law contains the State Peace Officers' and Firefighters' Defined Contribution Plan for state peace officer or firefighter members in State Bargaining Unit 6, the California Correctional Peace Officers Association, to supplement the benefits provided under the Public Employees' Retirement System. Under that plan, employer and employee contributions rates may be determined by the terms of a memorandum of understanding. Existing law also requires that the employer pick up the amounts otherwise due as employee contributions in accordance with federal law.~~

~~This bill would instead prohibit employer contributions to the account of a plan participant on or after January 1, 2012. The bill would also delete the requirement that the employer pick up the amounts otherwise due as employee contributions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20090 of the Government Code is
2 amended to read:
3 20090. The Board of Administration of the Public Employees'
4 Retirement System is continued in existence. It consists of:
5 (a) One member of the State Personnel Board, selected by and
6 serving at the pleasure of the State Personnel Board.
7 (b) The Director of the Department of Personnel Administration.
8 (c) The Controller.
9 (d) The ~~State~~ Treasurer.
10 (e) An official of a life insurer and an elected official of a
11 contracting agency, appointed by the Governor.
12 (f) One person representing the public, appointed jointly by the
13 Speaker of the Assembly and the Senate Committee on Rules.
14 (g) Six members ~~elected under the supervision of the board as~~
15 ~~follows: appointed by the Governor, selected and approved for~~
16 ~~appointment on the basis of their demonstrated expertise in the~~
17 ~~financial and actuarial fields.~~
18 (1) ~~Two members elected by the members of this system from~~
19 ~~the membership thereof.~~
20 (2) ~~A member elected by the active state members of this system~~
21 ~~from the state membership thereof.~~
22 (3) ~~A member elected by and from the active local members of~~
23 ~~this system who are employees of a school district or a county~~
24 ~~superintendent of schools.~~
25 (4) ~~A member elected by and from the active local members of~~
26 ~~this system other than those who are employees of a school district~~
27 ~~or a county superintendent of schools.~~
28 (5) ~~A member elected by and from the retired members of this~~
29 ~~system.~~

1 *SEC. 2. (a) Section 1 of this act, amending Section 20090 of*
2 *the Government Code, shall become effective only upon approval*
3 *by the voters at a statewide election.*

4 *(b) A special statewide election is hereby called, to be held*
5 *throughout the state on the date of a statewide election to be held*
6 *in 2011, for approval by the voters of Section 1 of this act. The*
7 *special statewide election shall be consolidated with the statewide*
8 *election to be held in 2011. The consolidated elections shall be*
9 *held and conducted in all aspects as if there were only one election,*
10 *and only one form of ballot shall be used.*

11 *(c) Notwithstanding Section 9040 of the Elections Code, or any*
12 *other provision of law, the Secretary of State shall, pursuant to*
13 *subdivision (c) of Section 10 of Article II of the California*
14 *Constitution, submit Section 1 of this act to the voters for approval*
15 *at the consolidated statewide election to be held in 2011.*

16 *SEC. 3. If the Commission on State Mandates determines that*
17 *this act contains costs mandated by the state, reimbursement to*
18 *local agencies and school districts for those costs shall be made*
19 *pursuant to Part 7 (commencing with Section 17500) of Division*
20 *4 of Title 2 of the Government Code.*

21 *SEC. 4. This act calls an election within the meaning of Article*
22 *IV of the Constitution and shall go into immediate effect.*

23 ~~SECTION 1. Section 22960.60 of the Government Code is~~
24 ~~amended to read:~~

25 ~~22960.60. (a) Employee contribution rates may be determined~~
26 ~~by the terms of the memorandum of understanding applicable to~~
27 ~~each plan participant in accordance with the requirements of this~~
28 ~~section.~~

29 ~~(b) Through the Department of Personnel Administration, the~~
30 ~~employer shall provide the board with a true and correct copy of~~
31 ~~each memorandum of understanding applicable to plan participants.~~
32 ~~The board may prescribe procedures for the orderly transmittal~~
33 ~~and receipt of these documents.~~

34 ~~(c) Except as provided in subdivision (c), after receipt of an~~
35 ~~applicable memorandum of understanding that sets forth an~~
36 ~~employee contribution rate, the board shall, in accordance with~~
37 ~~Section 22960.36, amend the plan to provide for the employee~~
38 ~~contribution rate set forth in the memorandum of understanding.~~

39 ~~(d) The employee contribution rate for state peace officers and~~
40 ~~firefighters who have become subject to this part pursuant to the~~

1 ~~provisions of subdivision (b) of Section 22960 shall be the~~
2 ~~contribution rate or rates set forth in the memorandum of~~
3 ~~understanding for state peace officers and firefighter members in~~
4 ~~Bargaining Unit 6.~~

5 ~~(e) The board may refuse to amend the plan under this section~~
6 ~~if, in the board's considered judgment, the proposed amendment~~
7 ~~would violate any applicable provision of Title 26 of the United~~
8 ~~States Code.~~

9 ~~(f) In the event an MOU expires and no new memorandums of~~
10 ~~understanding takes effect, the last memorandums of understanding~~
11 ~~in place shall control.~~

12 ~~(g) Notwithstanding subdivision (f) and Section 3517.8, on or~~
13 ~~after January 1, 2012, the employer shall not contribute any amount~~
14 ~~to the account of a participant in the plan.~~

15 ~~SEC. 2. Section 22960.61 of the Government Code is repealed.~~